

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RICHARD FORTENBERRY,

Plaintiff,

v.

TAMARA KELLEY, *et al.*,

Defendants.

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Case No. 22-12367

F. Kay Behm

United States District Judge

Kimberly G. Altman

United States Magistrate  
Judge

**OPINION AND ORDER ACCEPTING AND ADOPTING  
THE MAGISTRATE JUDGE'S MARCH 5, 2024  
REPORT AND RECOMMENDATION (ECF No. 40)**

Currently before the Court is Magistrate Judge Kimberly G. Altman's Report and Recommendation. (ECF No. 40). Magistrate Judge Altman recommends granting Defendants Maxson and Nakata's motion for summary judgment on the basis of failure to exhaust administrative remedies, and dismissing them as Defendants without prejudice. (ECF Nos. 40, 31). The court is fully advised in the premises and has reviewed the record and the pleadings. Neither party has filed objections. "[T]he failure to object to the magistrate judge's report[] releases the Court from its duty to independently review the matter." *Hall v. Rawal*, 2012 WL 3639070 (E.D. Mich. Aug. 24, 2012) (citing *Thomas v. Arn*, 474 U.S. 140, 149

(1985)). The court nevertheless agrees with the Magistrate Judge's recommended disposition. Therefore, the court **ACCEPTS** and **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 40), grants Defendants' motion for summary judgment (ECF No. 31), and **DISMISSES** Defendants Maxson and Nakata as Defendants, without prejudice.

**SO ORDERED.**

Date: April 4, 2024

s/F. Kay Behm

F. Kay Behm

United States District Judge